

ORIGINAL
Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

_____)	
In The Matter Of)	
_____)	MM Docket No. _____
Amendment of Section 73.606 and 73.622)	
Table of Allotments)	RM No. _____
Television Broadcast Stations)	
(Arcade, NY))	
_____)	

To: Chief, Allocations Branch

JOINT PETITION FOR RULE MAKING

Kevin O'Kane ("O'Kane") and Arcade Buffalo Corporation ("ABC") (together "Joint Petitioners"), by counsel, hereby submit this petition for rule making to amend the TV Table of Allotments to substitute digital channel 56 for NTSC channel 62 at Arcade, NY. Joint Petitioners' proposal is to amend Section 73.606 of the Commission's rules as follows:

	<u>Channel No.</u>	
<u>City</u>	<u>Present</u>	<u>Proposed</u>
Arcade, NY	62	----

It is proposed to amend Section 73.622 as follows:

	<u>Channel No.</u>	
<u>City</u>	<u>Present</u>	<u>Proposed</u>
Arcade, NY	---	56

I. Background

No. of Copies rec'd 0+4
 List ABCDE

No. A-193, released February 20, 1996, O’Kane’s application was accepted for filing and a cut-off date of April 5, 1996 was adopted. Several applications were tendered for filing pursuant to the cut-off list, including that of ABC (which has agreed to join O’Kane in this petition), but O’Kane’s application is the only application for this facility that has been accepted for filing.

2. Joint Petitioners are filing this petition for rule making pursuant to the Commission’s Public Notice, 14 FCC Rcd 19559 (1999) (“Window Notice”), announcing the opening of a window for the filing of, among other things, petitions for rule making seeking a new channel below channel 60 for applicants with pending applications for new full-service NTSC television stations on channels 60 – 69. The Commission cannot grant O’Kane’s application for channel 62 because the Commission has reallocated channels 60 to 69 to non-broadcast services. As a result, under the Window Notice, O’Kane was afforded the opportunity to file the instant petition for rule making to specify a new channel. As indicated in the attached Engineering Statement of Craig L. Fox, the proposed allotment is free of any short-spacings and is thus in compliance with the Commission’s allotment requirements.

3. The Window Notice states: “Where multiple applications have been filed for a single NTSC channel allotment, a petition for rulemaking must propose a single replacement channel (below 60), to which all applicants agree to modify their applications.” Inasmuch as O’Kane’s application is the only application accepted for filing, his agreement to modify his application as indicated herein is required to satisfy the Window Notice requirement. O’Kane hereby confirms that he will modify his application in accordance with such order as the Commission may render pursuant to the instant rulemaking proceeding. Although only the agreement of accepted applicants should be required, ABC (whose application has been tendered but not accepted)

likewise confirms that it will modify its application in accordance with the Commission's ultimate decision pursuant to this rulemaking proceeding.

II. The Public Interest Compels Grant of This Petition

4. The applicant must change from NTSC channel 62 in Arcade, NY to digital channel 56 because of the FCC mandated elimination of television channels 60 through 69. When it originally allocated channel 62 to Arcade, the Commission determined that allotment of a channel at Arcade would promote the objectives of Section 307(b) of the Communications Act of providing a fair, efficient, and equitable distribution of television broadcast stations among the various states and communities. See *National Broadcasting Co. v. U.S.*, 319 U.S. 190, 217 (1943) (describing goal of Communications Act to "secure the maximum benefits of radio to all the people of the United States"); *FCC v. Allentown Broadcasting Co.*, 349 U.S. 358, 359-62 (1955)(describing goal of Section 307(b) to "secure local means of expression").

III. Conclusion

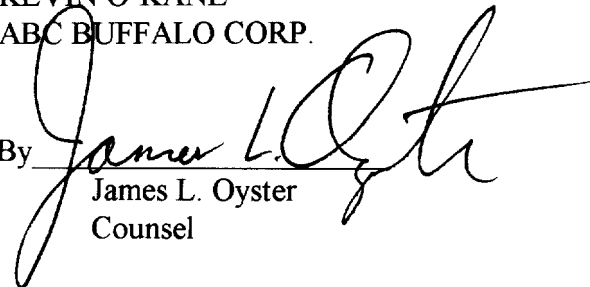
Wherefore, O'Kane and ABC respectfully request that the Commission initiate a rule making proceeding to amend Section 73.606 and 73.622 of its rules, the television Table of Allotments, to substitute digital channel 56 for NTSC channel 62 at Arcade, NY.

Respectfully submitted,

Law Offices
JAMES L. OYSTER
108 Oyster Lane
Castleton, Virginia 22716-9720

(540) 937-4800
August 17, 2000

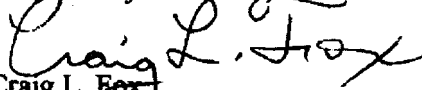
KEVIN O'KANE
ABC BUFFALO CORP.

By 
James L. Oyster
Counsel

**ENGINEERING STATEMENT
OF CRAIG L. FOX**

The attached spacing study shows that DTV channel 56 can be proposed for Arcade, NY in place of NTSC Channel 62 with a site restriction of 53.75 km. south of the community of Arcade. It has been determined that because the site is fully spaced and further because there are no conflicts with Canada, any such proposal for channel 56 for Arcade can utilize a full 1000 kW at the maximum height of 365 m. HAAT. Thus, the proposed facility can provide excellent coverage to Arcade well in excess of 57 dBu (see attached map) and that it can also provide good coverage throughout its noise limited contour.

Respectfully submitted


Craig L. Fox
Engineering Consultant
July 14, 2000

**Dataworld, Inc.
Bethesda, MD**

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Digital TV Channel Study

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Job Title: Arcade, NY

Channel(s):	56 Zone I
Coordinates:	N 42° 03' 20.0" W 78° 20' 04.0"
Safety Zone:	60.0 km (37.3 mi)
TV translators excluded	

Dataworld, Inc.
Bethesda, MD

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Digital TV Spacing Study

Title: Arcade, NY

Channel: 56 Zone I (722-728 MHz) Digital

Latitude: N 42° 03' 20.0"

Database: DW 7/13/2000 5:26:57 PM

Longitude: W 78° 20' 04.0"

Safety Zone: 60.0 km

Call City of License	Auth	Licensee name St	FCC File Number	Chan Zone	HAAT(m) HMSL(m)	ERP (kW)	Latitude Longitude	Br-to -from	Dist (km)	Req (km)
CIII Toronto	Lic	Global Communications Ltd. ON		41 o I	501.0	1475	N 43° 38' 33.0" W 79° 23' 15.0"	334.4 153.7	196.2 115.7	80.50 CLEAR
WYDC Corning	Lic	WYDC, Inc. NY	BLCT-940920KE	48 + I	166.1 597.1	12	N 42° 09' 43.0" W 77° 02' 15.0"	83.3 264.1	107.9 27.42	80.50 CLEAR
DA: SWR ODD940920KE @ 0.0°										
WNYO-TV Buffalo	Lic	Grant Television, Inc. NY	BLCT-870911KH	49 - I	376.0 738.0	4900	N 42° 46' 58.0" W 78° 27' 28.0"	352.9 172.8	81.42 0.915	80.50 CLOSE
DA: AND ODD870911KH @ 0.0°										
WILF Williamsport	Lic	Pegasus Broadcast Associates, LP PA	BLCT-19990203KE	53 - I	244.0 548.0	1320	N 41° 11' 57.0" W 77° 07' 38.0"	133.1 313.9	138.4 57.95	80.50 CLEAR
License granted 3/30/2000 per 44706-4/5/2000;; DA: AND ODD960214KF @ 250.0°; Primary station: WOLF-TV Hazleton, PA										
WQLN Erie	Lic	Public Broadcasting of Northwest PA	BLET-790827KG	*54 + I	268.0 609.0	1000	N 42° 02' 31.0" W 80° 03' 57.0"	270.0 88.8	143.3 62.85	80.50 CLEAR
WENY-TV Elmira	CP	WENY, Inc. NY	BPCDT-19991029AGG	55 I	320.0 718.0	44	N 42° 06' 20.0" W 76° 52' 17.0"	86.9 267.9	121.2 11.19	110.0 CLOSE
Digital channel; DTV channel;; DA: DIE ODD991029GG @ 0.0°										
WENY-TV Elmira	DTV	WENY, Inc. NY		55 I	320.0 718.0	50	N 42° 06' 20.0" W 76° 52' 17.0"	86.9 267.9	121.2 11.19	110.0 CLOSE
Digital channel; DTV Channel Allotment per MM Doc 87-268 (6th R & O) released 2/19/98;; DA: rap NYELMIRA 55 @ 0.0°										
CIII Fort Erie	Lic	Global Communications Ltd. ON		55 - I	118.0 0.0	47	N 42° 55' 35.0" W 79° 05' 36.0"	327.5 147.0	115.1 9.11	106.0 CLOSE
WOLF-TV Hazleton	Lic	WOLF License Corporation PA	BLCT-19981202KG	56 o I	503.0 888.0	1580	N 41° 11' 00.0" W 75° 52' 10.0"	114.5 296.1	227.1 9.839	217.3 CLOSE
License granted 3/22/2000 per 44699-3/27/2000;; DA: DIE ODD951215KF @ 0.0°										
WSPX-TV Syracuse	Lic	Syracuse Minority Television, In NY	BLCT-981207KE	56 + I	379.0 525.0	5000	N 43° 18' 18.0" W 76° 03' 00.0"	52.6 234.1	233.1 15.78	217.3 CLOSE
License granted 8/9/99 per 44549-8/12/99;; DA: AND ODD941020KH @ 0.0°										
NEW Waverly	App	WSKG Public Telecommunications C NY	BPET-961213KE	*57 - I	300.0 674.0	1550	N 42° 02' 40.0" W 76° 35' 50.0"	89.9 271.1	143.8 37.83	106.0 CLEAR
NEW Waverly	App	Changing Perspective, Inc. NY	BPET-961213KF	*57 - I	104.0 462.0	30	N 42° 03' 20.0" W 76° 30' 45.0"	89.4 270.6	150.8 44.82	106.0 CLEAR
DA: SWR ODD961213KF @ 0.0°										
ALLOC Saint Catharines Proposed Deletion		ON		60 o I	0.0 0.0	0	N 43° 10' 00.0" W 79° 15' 00.0"	329.1 148.5	144.5 63.99	80.50 CLEAR

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Bethesda, MD

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Digital TV Spacing Study

Title: Arcade, NY

Channel: 56 Zone I (722-728 MHz) Digital

Latitude: N 42° 03' 20.0"

Longitude: W 78° 20' 04.0"

Database: DW 7/13/2000 5:26:57 PM

Safety Zone: 60.0 km

Call	Auth	Licensee name	Chan	HAAT(m)	ERP	Latitude	Br-to	Dist	Req
City of License		St	Zone	HAMSL(m)	(kW)	Longitude	-from	(km)	(km)
ALLOC			63 -	0.0	0	N 43° 38' 33.0"	334.4	196.2	80.50
Toronto		ON	I	0.0		W 79° 23' 15.0"	153.7	115.7	CLEAR
Proposed Deletion									

>> End of channel 56 Zone I study <<

Digital TV Spacing Study

Title: Arcade, NY

Channel: 56 Zone I (722-728 MHz) Digital

Database: FCC 6/27/2000 2:56:42 PM

Latitude: N 42° 03' 20.0"

Longitude: W 78° 20' 04.0"

Safety Zone: 60.0 km

Call	Auth	Licensee name	Chan	HAAT(m)	ERP	Latitude	Br-to	Dist	Req
City of License		St	FCC File Number	Zone	HAMSL(m)	(kW)	Longitude	-from	(km)
>> End of channel 56 Zone I study <<									

Arcade
 Latitude: 42-03-20 N
 Longitude: 078-20-04 W
 Power: 1000.00 kW
 Channel: 56
 Frequency: 725.0 MHz
 AMSL Height: 906.62 m
 Elevation: 519.374 m
 Horiz. Pattern: Omni
 Vert. Pattern: No
 Prop Model: None

